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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91208103
Party	Defendant MorphoTrust USA, Inc.
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Date	12/28/2012
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**UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK AND APPEAL BOARD**

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IDENTRUST, INC.	In the Matter of Opposition No. 91208103	
		Application Serial No. 85/594/287
Opposer,		Published in the July 24, 2012 <i>Official</i>
		<i>Gazette</i>
v.		Mark: IDENTOGO
MOPHOTRUST USA, INC.		
Applicant.		<b><u>ANSWER</u></b>

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MorphoTrust USA, Inc. ("Applicant"), through its attorneys, hereby answers the above-captioned Notice of Opposition ("Notice") as follows:

1. Denies each and every fact and allegation set forth in the Notice except those facts or allegations that are herein admitted, qualified or otherwise answered.
2. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in paragraphs 1 through 4 of the Notice and, therefore, denies said allegations.
3. Applicant denies the allegations set forth in paragraphs 5 of the Notice, but admits that the original application, filed in Class 42, was subsequently amended to designate Class 45.
4. Applicant denies the allegations set forth in paragraphs 6 through 8 of the Notice.
5. Paragraph 9 of the Notice states a legal conclusion to which no response if

necessary or appropriate.

6. Applicant admits the allegations set forth in paragraph 10 of the Notice.
7. Applicant denies the allegations set forth in paragraph 11 of the Notice.
8. Paragraph 12 of the Notice states a legal conclusion to which no response is

necessary or appropriate.

9. Applicant denies the allegations set forth in paragraph 13 of the Notice.

### **AFFIRMATIVE DEFENSES**

10. The Notice fails to state a claim upon which relief can be granted.
11. Opposer lacks standing.
12. Opposer's claim is barred by equitable and/or judicial estoppel.
13. Opposer's claim is not warranted by existing law or by a nonfrivolous

argument for extension, modification or reversal of existing law or the establishment of new law.

14. Opposer's claim has been asserted for an improper purpose.
15. Opposer's claim is barred by unclean hands.
16. There is no likelihood of confusion, mistake, or deception of the public

between the parties' respective marks.

17. Applicant alleges that, prior to the filing of the trademark application to register its IDENTOGO mark, Applicant was aware of not only Opposer's registration, but also of all of a number of third-party registrations for trademarks consisting in part of the prefix "Ident" in combination with other terms for identification verification or authentication services, including the registration of the mark IDENTIX by


MorphoTrust's wholly-owned subsidiary, Identic, Inc., affiliate that pre-dates Opposer's registrations

WHEREFORE, MorphoTrust, Inc. prays that Opposer's Notice of Opposition be dismissed with prejudice and on the merits.

Respectfully submitted,

MASLON EDELMAN BORMAN & BRAND, LLP

Dated: December 28, 2012

By: \_\_\_\_\_

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ATTORNEYS FOR APPLICANT

**CERTIFICATE OF MAILING**

I hereby certify that this Answer is being deposited with the United States Postal

Service as first class mail in an envelope addressed to:

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Date of Deposit/Email: December 28, 2012.